

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Richmond Division**

WAYNE RALPH MARSHALL,)	
)	
Petitioner,)	
)	
v.)	Civil Action No. 3:22-cv-799-HEH
)	
DIRECTOR, D.O.C.,)	
CORRECTIONS,)	
)	
Respondent.)	

MEMORANDUM OPINION
(Dismissing Successive § 2254 Petition)

Wayne Ralph Marshall (“Petitioner”), a Virginia prisoner proceeding *pro se*, submitted a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254, challenging his convictions in the Circuit Court for the City of Virginia Beach for murder, robbery, malicious wounding, abduction, abduction with intent to extort money, two counts of unlawful wounding, and use of a firearm. (ECF No. 1 at 2.) It appeared that the Court already had denied a 28 U.S.C. § 2254 petition with respect to the convictions. *Marshall v. Vachris*, 1:02CV816–GBL (E.D. Va. Oct. 15, 2003) (ECF No. 17.) Accordingly, by Memorandum Order entered on December 28, 2022 (ECF No. 3), the Court directed Petitioner, within thirty (30) days of the date of entry thereof, to show cause why the present § 2254 Petition should not be dismissed as a successive, unauthorized 28 U.S.C. § 2254 petition.¹

¹ The Antiterrorism and Effective Death Penalty Act of 1996 restricted the jurisdiction of the district courts to hear second or successive applications for federal habeas corpus relief by prisoners attacking the validity of their convictions and sentences by establishing a “gatekeeping

Petitioner responded. (ECF No. 4.) However, Petitioner failed to advance any reason that would allow the Court to review his successive 28 U.S.C. § 2254 Petition. The Court has not received authorization from the United States Court of Appeals for the Fourth Circuit to file the present § 2254 Petition. Therefore, the action (ECF No. 1) will be dismissed without prejudice for want of jurisdiction. A certificate of appealability will be denied.

An appropriate Final Order will accompany this Memorandum Opinion.

Date: Feb. 16, 2023
Richmond, Virginia



/s/
Henry E. Hudson
Senior United States District Judge

mechanism.” *Felker v. Turpin*, 518 U.S. 651, 657 (1996) (internal quotation marks omitted). Specifically, “[b]efore a second or successive application permitted by this section is filed in the district court, the applicant shall move in the appropriate court of appeals for an order authorizing the district court to consider the application.” 28 U.S.C. § 2244(b)(3)(A).